

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

March 7, 2006

The Honorable Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Chertoff:

We write regarding a recent news report stating that U.S. Immigration and Customs Enforcement (ICE) officials told representatives from immigration and labor groups that ICE has not ruled out the practice of impersonating Occupational Safety and Health Administration (OSHA) officials as part of its efforts to round up illegal immigrants. If true, this would contradict a letter you sent to Senators who contacted you about this issue last year, which stated that you had ordered ICE to cease impersonating OSHA officials in its ruses.

As you know, ICE employees impersonated OSHA employees during a controversial raid at Seymour Johnson Air Force Base in Goldsboro, North Carolina, last summer. During your testimony before the Senate Judiciary Committee on October 18, 2005, you told the Committee that "[i]t's appropriate to use ruses, but I think a ruse that involves safety or health is not appropriate." Furthermore, in a November 17, 2005, letter responding to our inquiry about the incident, you wrote that "I was very concerned when I learned that ICE agents had posed as OSHA officials for this type of ruse. I have specifically ordered ICE to cease these types of administrative ruses under OSHA's name."

Based on your October testimony before the Senate Judiciary Committee and your November letter, we concluded that you agreed with our view that it was inappropriate for immigration enforcement agents to impersonate OSHA employees as part of a ruse because it could discourage workers from reporting concerns about workplace safety, and that you had taken action to ensure that such incidents would not happen again.

Yet according to an article published in *The New York Times* on February 11, 2006, ICE has apparently decided not to disavow this practice. This directly contradicts your testimony to the Judiciary Committee, as well as your written response to our inquiry. Please provide clarification regarding the Department of Homeland Security's position on this issue.

Furthermore, as you also noted in your November 18, 2005, letter, guidance issued by ICE's Office of Investigations on July 22, 2005, requires all field offices to coordinate with any government agency or private entity whose name will be used in a ruse of this sort, in advance of its implementation. According to the recent *New York Times* story,

OSHA has continued to voice its objection to the use of OSHA's name in such ruses. Please detail what coordination, if any, ICE has pursued with OSHA in compliance with this guidance.

Thank you in advance for your assistance. We look forward to your prompt response.

Sincerely,



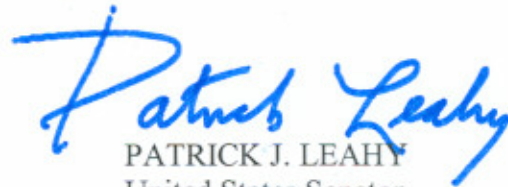
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United States Senator



PATRICK J. LEAHY
United States Senator



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cc: Julie Myers, Assistant Secretary, ICE, DHS